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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/562,361

12/27/2005

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EXAMINER

LE, HOA VAN

ART UNIT

PAPER NUMBER

1795

MAIL DATE

DELIVERY MODE

01/16/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/562,361	Applicant(s) TAKAHASHI ET AL.	
	Examiner Hoa V. Le	Art Unit 1795	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/27/05 11/13/06</u> . | 6) <input type="checkbox"/> Other: _____ |

This is in response to Paper filed on 12/18/08.

I. There have been on the record:

(1) In response to the Election of Species Requirement, applicants hereby provisionally elect the following species within general Formula (1):

Ra is an alkyl group having 1-18 carbon atoms;

Rb is a hydrogen (or its homologues); and

Rc is a hydrogen (or its homologues).

This election is made without traverse. Claims 1-21 read on the elected species. The elect is acknowledged.

Accordingly, compound A and compound B read on the same elected compound.

(2) Spanning pages 2-3 of the Office Action, the Examiner requests a translation for five (5) non-English references. Some of the references mentioned by the Examiner are described in the specification. Some of the references are listed together with their degree of relevance in an English language Search Report supplied to the Patent Office. Referring to 37 CFR § 1.98 and MPEP § 609, a description in the specification or an English language Search Report can serve as an explanation of relevancy, which satisfies Applicants' duty of disclosure. It is submitted that Applicants have satisfied their Duty of Disclosure for each of the references. Applicants request that the Examiner now study the references and consider each to the extent he believes appropriate. It is not found to be convincing. The prior art submission is considered to the extent of the English language as provided only as clearly pointed out and set forth on the record mailed on 11/24/08.

II. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention.

“R_f” has no antecedent basic.

III. (1) The language “or less” includes zero.

(2) The language “or more” includes 100%.

(3) The language “...obtained by...” in a material claim (developer) is a product-by-process. According to the MPEP, "even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." (MPEP 2113 [R-I], see *In re Thorpe*, 777 F.2d 695, 698,227 USPQ 964,966). However, for a patentability of a product-by-process embodiment, it is allowed by law to request and require applicant to provide a convincing evidence on and for the record that (1) the product being made by the claimed processing steps as broadly claimed are always produced a chemical structure distinct triphenolic compound from each of all known triphenolic compounds in the art (2) the claimed product-by-process is always provide an unusual or unexpected results over each of all known

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triphenolic compounds. An allowed claim or patent would have no value when someone reasonably shows that at least one of the broadly claimed product-by-process compounds is the same or adjacent homologue to one of the known triphenolic compound or does not provide an unusual or unexpected result over one of the known triphenolic compound in the art. Evidence being not considered during the prosecution must be firstly considered and taken to a full and complete satisfaction before allowing or permitting any other issue to be taken. Accordingly, applicant is urged and requested to early, timely and candidly provide convincing evidence over each of the applied triphenolic compounds and each of the triphenolic compounds in the submitted prior art on the record for an early and timely considered and examination to avoid a lengthy and costly litigation during the prosecution and after an allowance of a broadly claim.

IV. The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-6 and 13-17 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over GB 1 493 760 patent as provided by applicant.

Patentee in GB patent discloses and teaches triphenolic compounds being read on the elected compound and within the general formula (1) as broadly claimed. Please see the whole disclosure, especially on page 1, line 9 to page 4, line 52.

In the claims

(1) the language "or less" includes zero.

(2) The language "or more" includes 100%.

(3) the language "...obtained by..." in a material claim (developer) is a product-by-process. According to the MPEP, "even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." (MPEP 2113 [R-I], see *In re Thorpe*, 777F.2d 695, 698,227 USPQ 964,966). However, for a patentability of a product-by-process

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embodiment, it is allowed by law to request and require applicant to provide a convincing evidence on and for the record that (1) the product being made by the claimed processing steps as broadly claimed are always produced a chemical structure distinct triphenolic compound from each of all known triphenolic compounds in the art and at least each of the applied triphenolic compounds (2) the claimed product-by-process is always provide an unusual or unexpected results over each of all known triphenolic compounds and at least each of the applied triphenolic compounds. An allowed claim or patent would have no value when someone reasonably shows that at least one of the broadly claimed product-by-process compounds is the same or adjacent homologue to one of the known triphenolic compound or does not provide an unusual or unexpected result over one of the known triphenolic compound in the art. Evidence being not considered during the prosecution must be firstly considered and taken to a full and complete satisfaction before allowing or permitting any other issue to be taken. Accordingly, applicant is urged and requested to early, timely and candidly provide convincing evidence over each of the applied triphenolic compounds and each of the triphenolic compounds in the submitted prior art on the record for an early and timely considered and examination to avoid a lengthy and costly litigation during the prosecution and after an allowance of a broadly claim. In the absence of

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convincing evidence to the contrary, the above claims are reasonably found to be anticipated by the teachings in GB 1 493 760.

In an alternative, the broad teachings and/or suggestions are applied that includes an adjacent homologue to each of the applied triphenolic compounds for an obviously about same developing property is applied. In the absence of convincing evidence to the contrary, the above claims are reasonably found to be rendered prima-facie obvious by the teachings in GB 1 493 760.

V. Claims 1-6 and 13-17 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Pochwalski et al in Chemical Abstract XP-002399188 as provided by applicant.

Pochwalski et al disclose and teach triphenolic compounds being read on the elected compound and within the general formula (1) as broadly claimed. Please see the whole disclosure.

In the claims

(1) the language “or less” includes zero.

(2) The language “or more” includes 100%.

(3) the language “...obtained by...” in a material claim (developer) is a product-by-process. According to the MPEP, "even though product-by-

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process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." (MPEP 2113 [R-I], see *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966). However, for a patentability of a product-by-process embodiment, it is allowed by law to request and require applicant to provide a convincing evidence on and for the record that (1) the product being made by the claimed processing steps as broadly claimed are always produced a chemical structure distinct triphenolic compound from each of all known triphenolic compounds in the art and at least each of the applied triphenolic compounds or (2) the claimed product-by-process is always provide an unusual or unexpected results over each of all known triphenolic compounds and at least each of the applied triphenolic compounds. An allowed claim or patent would have no value when someone reasonably shows that at least one of the broadly claimed product-by-process compounds is the same or adjacent homologue to one of the known triphenolic compound or does not provide an unusual or unexpected result over one of the known triphenolic compound in the art. Evidence being not considered

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during the prosecution must be firstly considered and taken to a full and complete satisfaction before allowing or permitting any other issue to be taken. Accordingly, applicant is urged and requested to early, timely and candidly provide convincing evidence over each of the applied triphenolic compounds and each of the triphenolic compounds in the submitted prior art on the record for an early and timely considered and examination to avoid a lengthy and costly litigation during the prosecution and after an allowance of a broadly claim. In the absence of convincing evidence to the contrary, the above claims are reasonably found to be anticipated by Pochwalski et al.

In an alternative, the broad teachings and/or suggestions are applied that includes an adjacent homologue to each of the applied triphenolic compounds for an obviously about same developing property is applied. In the absence of convincing evidence to the contrary, the above claims are reasonably found to be rendered prima facie obvious by Pochwalski et al.

VI. Claims 1-6 and 13-17 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Shirakawa et al (5,629,128).

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Shirakawa et al disclose and teach triphenolic compounds being read on the elected compound and within the general formula (1) as broadly claimed. Please see the whole disclosure, especially on col.5:31-60, 7:59 to 9:32, 58 to 11:60. Synthesis Example 3 with compounds D and E, Synthesis Example 4 with compounds F and G, Synthesis Example 5 with compounds H and I, Synthesis Example 6 with compound J, col.23:45-57, col.24:1-12.

In the claims

(1) the language "or less" includes zero.

(2) The language "or more" includes 100%.

(3) the language "...obtained by..." in a material claim (developer) is a product-by-process. According to the MPEP, "even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." (MPEP 2113 [R-I], see *In re Thorpe*, 777F.2d 695, 698, 227 USPQ 964, 966). However, for a patentability of a product-by-process embodiment, it is allowed by law to request and require applicant to provide a

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convincing evidence on and for the record that (1) the product being made by the claimed processing steps as broadly claimed are always produced a chemical structure distinct triphenolic compound from each of all known triphenolic compounds in the art and at least each of the applied triphenolic compounds or (2) the claimed product-by-process is always provide an unusual or unexpected results over each of all known triphenolic compounds and at least each of the applied triphenolic compounds. An allowed claim or patent would have no value when someone reasonably shows that at least one of the broadly claimed product-by-process compounds is the same or adjacent homologue to one of the known triphenolic compound or does not provide an unusual or unexpected result over one of the known triphenolic compound in the art. Evidence being not considered during the prosecution must be firstly considered and taken to a full and complete satisfaction before allowing or permitting any other issue to be taken. Accordingly, applicant is urged and requested to early, timely and candidly provide convincing evidence over each of the applied triphenolic compounds and each of the triphenolic compounds in the submitted prior art on the record for an early and timely considered and examination to avoid a lengthy and costly litigation during the prosecution and after an allowance of a broadly claim. In the absence of

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convincing evidence to the contrary, the above claims are reasonably found to be anticipated by Shirakawa et al.

In an alternative, the broad teachings and/or suggestions are applied that includes an adjacent homologue to each of the applied triphenolic compounds for an obviously about same radiation sensitive (col.1:4-10) and developing property (as claimed) are applied. In the absence of convincing evidence to the contrary, the above claims are reasonably found to be anticipated by Shirakawa et al.

VII. Claims 1-6 and 13-17 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sato et al (5,523,396).

Sato et al disclose and teach triphenolic compounds being read on the elected compound and within the general formula (1) as broadly claimed. Please see the whole disclosure, especially col.3:24 to 4:40, compounds VI, VII, VIII, col.5:10-15 and 22 to 6:17, compounds X, XI, XIII, XIV, col.9:16-34, 51 to 10-43, 51 to 15:15, 42-56. Synthesis Examples 1, 4.

In the claims

(1) the language “or less” includes zero.

(2) The language “or more” includes 100%.

(3) the language "...obtained by..." in a material claim (developer) is a product-by-process. According to the MPEP, "even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." (MPEP 2113 [R-I], see *In re Thorpe*, 777F.2d 695, 698,227 USPQ 964,966). However, for a patentability of a product-by-process embodiment, it is allowed by law to request and require applicant to provide a convincing evidence on and for the record that (1) the product being made by the claimed processing steps as broadly claimed are always produced a chemical structure distinct triphenolic compound from each of all known triphenolic compounds in the art and at least each of the applied triphenolic compounds or (2) the claimed product-by-process is always provide an unusual or unexpected results over each of all known triphenolic compounds and at least each of the applied triphenolic compounds. An allowed claim or patent would have no value when someone reasonably shows that at least one of the broadly claimed product-by-process compounds is the same or adjacent homologue to one of the known

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triphenolic compound or does not provide an unusual or unexpected result over one of the known triphenolic compound in the art. Evidence being not considered during the prosecution must be firstly considered and taken to a full and complete satisfaction before allowing or permitting any other issue to be taken. Accordingly, applicant is urged and requested to early, timely and candidly provide convincing evidence over each of the applied triphenolic compounds and each of the triphenolic compounds in the submitted prior art on the record for an early and timely considered and examination to avoid a lengthy and costly litigation during the prosecution and after an allowance of a broadly claim. In the absence of convincing evidence to the contrary, the above claims are reasonably found to be anticipated by Shirakawa et al.

In an alternative, the broad teachings and/or suggestions are applied that includes an adjacent homologue to each of the applied triphenolic compounds for an obviously about same high sensitivity (col.1:4-10) and developing property (as claimed) are applied. In the absence of convincing evidence to the contrary, the above claims are reasonably found to be anticipated by Shirakawa et al.

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VIII. Claims 1-6, 10, 13-17 and 20 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Oya et al (2002/0048732).

Oya et al disclose and teach the use of one or more reducing agents as developing agents for a non-light sensitive reducible organic silver to form a silver image with a silver halide as a catalyst in a photothermographic art. The reducing agents include one or more triphenolic compounds being read on the elected compound and within the general formula (1) as broadly claimed and/or one or more colorless or light color precursor reducing agents for forming a colorant on a photothermographic material. Please see the whole disclosure, especially on at least paragraphs 0058 with compounds I-31 and I-32, 0088, 0090 to 0097, 0106-0112, 0114-0127, 0171.

In the claims,

(1) the language “or less” includes zero.

(2) The language “or more” includes 100%.

(3) the language “...obtained by...” in a material claim (developer) is a product-by-process. According to the MPEP, "even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product

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does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." (MPEP 2113 [R-I], see *In re Thorpe*, 777F.2d 695, 698,227 USPQ 964,966). However, for a patentability of a product-by-process embodiment, it is allowed by law to request and require applicant to provide a convincing evidence on and for the record that (1) the product being made by the claimed processing steps as broadly claimed are always produced a chemical structure distinct triphenolic compound from each of all known triphenolic compounds in the art and at least over the applied compounds I-31 and I-32 (2) the claimed product-by-process is always provide an unusual or unexpected results over each of all known triphenolic compounds and at least over the applied compounds I-31 and I-32. An allowed claim or patent would have no value when someone reasonably shows that at least one of the broadly claimed product-by-process compounds is the same or adjacent homologue to one of the known triphenolic compound or does not provide an unusual or unexpected result over one of the known triphenolic compound in the art. Evidence being not considered during the prosecution must be firstly considered and taken to a full and complete satisfaction before allowing or permitting any other issue to be taken. Accordingly,

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applicant is urged and requested to early, timely and candidly provide convincing evidence over each of the applied triphenolic compounds and each of the triphenolic compounds in the submitted prior art on the record for an early and timely considered and examination to avoid a lengthy and costly litigation during the prosecution and after an allowance of a broadly claim. In the absence of convincing evidence to the contrary, the above claims are reasonably found to be anticipated by Oya et al.

In an alternative, the broad teachings and/or suggestions are applied that includes adjacent homologue of each of compounds I-31 and I-32 to one having ordinary skill in the art at the time the invention was made with obviously about same developing property (as claimed). In the absence of convincing evidence to the contrary, the above claims are reasonably found to be rendered prima facie obvious by Oya et al.

IX. Claims 1-6 and 8-21 are rejected under 35 U.S.C. 103(a) as obvious over Oya et al (2002/0048732) considered in view of Maskasky et al (2004/0053173).

Oya et al disclose and teach the use of one or more reducing agents as developing agents for a non-light sensitive reducible organic silver to form a silver

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image with a silver halide as a catalyst in a photothermographic art. The reducing agents include or more triphenolic compounds being read on the elected compound and within the general formula (1) as broadly claimed and/or one or more colorless or light color precursor reducing agents for forming a colorant on a photothermographic material. Please see the whole disclosure, especially on at least paragraphs 0058 with compounds I-31 and I-32, 0088, 0090 to 0097, 0106-0112, 0114-0127, 0171.

In the claims,

(1) the language "or less" includes zero.

(2) The language "or more" includes 100%.

(3) the language "...obtained by..." in a material claim (developer) is a product-by-process. According to the MPEP, "even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." (MPEP 2113 [R-I], see *In re Thorpe*, 777F.2d 695, 698,227 USPQ 964,966). However, for a patentability of a product-by-process

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embodiment, it is allowed by law to request and require applicant to provide a convincing evidence on and for the record that (1) the product being made by the claimed processing steps as broadly claimed are always produced a chemical structure distinct triphenolic compound from each of all known triphenolic compounds in the art and at least over the applied compounds I-31 and I-32 including an adjacent homologue of each of compounds I-31 and I-32 to one having ordinary skill in the art at the time the invention was made with obviously about same developing property (as claimed). (2) the claimed product-by-process is always provide an unusual or unexpected results over each of all known triphenolic compounds and at least over the applied compounds I-31 and I-32 including an adjacent homologue of each of compounds I-31 and I-32 to one having ordinary skill in the art at the time the invention was made with obviously about same developing property (as claimed). An allowed claim or patent would have no value when someone reasonably shows that at least one of the broadly claimed product-by-process compounds is the same or adjacent homologue to one of the known triphenolic compound or does not provide an unusual or unexpected result over one of the known triphenolic compound in the art. Evidence being not considered during the prosecution must be firstly considered and taken to a full and complete satisfaction before allowing or permitting any other issue to be taken.

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Accordingly, applicant is urged and requested to early, timely and candidly provide convincing evidence over each of the applied triphenolic compounds and each of the triphenolic compounds in the submitted prior art on the record for an early and timely considered and examination to avoid a lengthy and costly litigation during the prosecution and after an allowance of a broadly claim. In the absence of convincing evidence to the contrary, the above claims 1-6, 10, 13-17 and 20 are not found to be allowable over Oya et al.

Oya et al do not specify the use of colorless or light-color dye (color) precursor, former or coupler. However, it is known in the art at the time the invention was made to use a colorless or light-color dye (color) precursor, former or coupler to obtain a developed color image. Evidence can be seen in Maskasky et al on at least paragraphs 0160-0161.

Since the above references are all related to developers and additives in a photothermographic art, it would have been obvious to one having ordinary skill in the art at the time the invention was made to cite the known colorant for a reasonable expectation of obtaining a developed color image as disclosed, taught and suggested in Maskasky et al.

X. There has been on the record:

“The prior art submissions have been considered to the extent of (a) English language as provided and (b) chemical structures in the non-English language disclosures only.

(1) JP8230328 is appeared to be relevant to the instant claims. Especially, chemical structures on paragraphs 0029, 0034 are appeared to be relevant. Therefore, an English language translation or about the same is requested. However, applicant, assignee and/or their counsel may and should disagree on and for the record that there is no relevant embodiment. Accordingly, no English language translation is submitted.

(2) JP2001096926 is appeared to be relevant to the instant claims. Especially, chemical structure III on paragraph 0018 is appeared to be relevant. Therefore, an English language translation or about the same is requested. However, applicant, assignee and/or their counsel may and should disagree on and for the record that there is no relevant embodiment. Accordingly, no English language translation is submitted.

(3) JP9278695 is appeared to be relevant to the instant claims. Especially, chemical structure I on paragraphs 0015 is appeared to be relevant. Therefore, an English language translation or about the same is requested. However, applicant, assignee and/or their counsel may and should disagree on and for the record that

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there is no relevant embodiment. Accordingly, no English language translation is submitted.

(4) JP6115255 is appeared to be relevant to the instant claims. Especially, chemical structure on page 3, top right paragraph is appeared to be relevant.

Therefore, an English language translation or about the same is requested.

However, applicant, assignee and/or their counsel may and should disagree on and for the record that there is no relevant embodiment. Accordingly, no English language translation is submitted.

(5) WO 02/098674 is appeared to be relevant to the instant claims. Especially, chemical structure on top of page 3 appeared to be relevant. Therefore, an English language translation or about the same is requested. However, applicant, assignee and/or their counsel may and should disagree on and for the record that there is no relevant embodiment. Accordingly, no English language translation is submitted.

An allowed claim or patent would have no value when someone shows that there is at least one useable or applicable embodiment in at least one of the above references. Therefore, an early and timely English language translation or about the same is requested to provided in the next response to this Office action in order for each of them to be considered timely.”

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The above prior art submission will be applied when a sufficiently pertinent portion of each of the references is early, timely and candidly provided for an early and timely consideration and examination as early and timely clearly pointed out and set forth on the record.

XI. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoa V. Le whose telephone number is 571-272-1332.

The examiner can normally be reached from 7:30 AM to 4:30 PM on Monday through Thursday and about the same time of most Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on 571-272-1526.

Applicants may file a paper by (1) fax with a central facsimile receiving number 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Hoa V. Le/

Primary Examiner, Art Unit 1795

01/15/09